

limitation of a "side" of a transaction for purposes of the fee structure.⁶ As defined in new section V of the fee structure, a "side" of a trade or transaction is limited to \$50 million increments in size.⁷ Thus, if the aggregate amount of a side of a trade submitted to GSCC by or on behalf of a member is greater than \$50 million, each \$50 million portion of that aggregate amount, including any residual portion that is less than \$50 million, shall be considered as a separate "side" for purposes of the fee structure.

GSCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among GSCC's participants.

(b) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(c) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change have not yet been solicited. Members will be notified of the rule filing, and comments will be solicited by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)⁸ of the Act and pursuant to Rule 19b-4(e)(2)⁹ promulgated thereunder because the proposal

establishes or changes are due, fee or other charge imposed by GSCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR-GSCC-95-01 and should be submitted by July 31, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-35979; File No. SR-NYSE-95-13]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 to Proposed Rule Change Relating to Amendments to the Exchange's Allocation Policy and Procedures

July 17, 1995.

I. Introduction

On March 31, 1995, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section

19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the Exchange's Allocation Policy and Procedures which would permit Floor broker Senior Floor Officials to replace Governors on the Allocation Committee for quorum purposes. On May 17, 1995, the NYSE submitted Amendment No. 1 to the proposed rule change.³

The proposed rule change, including Amendment No. 1, was published for comment in Securities Exchange Act Release No. 35776 (May 30, 1995), 60 FR 30135. No comments were received on the proposal.

II. Description of the Proposals

The Exchange's Allocation Policy and Procedures ("Policy") governs the allocation of equity securities to NYSE specialist units. The purpose of the Policy is to ensure that each security is allocated in the fairest manner possible to the best specialist unit for that security. The Policy establishes the Allocation Panel⁴ and the Allocation Committee.⁵ The Allocation Committee consists of three Floor broker Governors,⁶ four Floor brokers, and two allied members from the Exchange's Market Performance Committee⁷ or from the Allocation Panel. The Exchange believes that the Floor broker Governors on the Allocation Committee add a comprehensive knowledge of specialist performance and a broad perspective and expertise relating to the Exchange. In furtherance of this belief, the Policy's quorum requirement requires that at least two Floor broker

¹ 15 U.S.C. 78s(b)(1).

² 17 C.F.R. 240.19b-4.

³ See Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Elisa Metzger, Senior Counsel, SEC dated May 16, 1995.

⁴ The Allocation Panel comprises the pool of individuals from which the Allocation Committee is formed. The Allocation Panel members are selected through an annual appointment process with input from the membership. Panel members are appointed to serve a one-year term; Floor broker Governors, however, remain on the Allocation Panel for as long as they are Floor broker Governors.

⁵ This committee determines which specialist unit will specialize in a particular security. See Securities Exchange Act Release No. 34626 (September 1, 1994), 59 FR 46457.

⁶ A Floor broker Governor is an individual, designated as such by the Chairman of the Exchange's Board of Directors, who is empowered to perform any duty, make any decision or take any action assigned to or required of a Floor Director as prescribed by the rules of the Exchange's Board of Directors.

⁷ An allied member is a general partner, principal executive officer or employee who controls a member firm or member organization. See New York Stock Exchange, Inc., Constitution, Art. 1, Sec. 3(c).

⁶ The issue concerning the determination of a "side" of a transaction for purposes of GSCC's fee structure has arisen in connection with GSCC's implementation of its auction take down service. For a description of GSCC auction take down procedures, refer to Securities Exchange Act Release Nos. 33984 (May 2, 1994), 59 FR 24491 [File No. SR-GSCC-94-01] (approving proposed rule change relating to the comparison and netting of member's treasury auction purchases) and 34260 (June 27, 1994), 59 FR 33994 [File No. SR-GSCC-94-05] (notice of filing and immediate effectiveness of proposed rule change relating to GSCC's fee structure in connection with GSCC's auction take down services).

⁷ Frequently, the aggregate amount of GSCC members' Treasury auction awards that are submitted to GSCC by a Federal Reserve Bank exceeds \$50 million.

⁸ 15 U.S.C. § 78s(b)(3)(A)(ii) (1988).

⁹ 17 CFR 240.19b-4(e)(2) (1994).

¹⁰ 17 CFR 300.30-3(a)(12) (1994).

Governors be present at Allocation Committee meetings.

In order to avoid the appearance of a conflict of interest on the part of an Allocation Committee member, the Policy requires an Allocation Committee member whose firm has an investment banking/underwriting relationship with a listing company or is affiliated with a specialist unit applicant, to abstain from deliberations with respect to that particular stock. The Exchange has found that the conflict of interest exclusion may, at times, impede the Exchange's efforts to maintain the maximum presence of three Floor broker Governors on the Allocation Committee. The Exchange believes that conflict of interest abstentions, among other matters, could lead to situations in which the quorum requirement for Floor broker Governors could not be met. In order to respond to this concern, the Exchange is proposing to amend the Policy to permit Senior Floor Officials⁸ to substitute for Floor broker Governors on the Allocation Committee for purposes of satisfying quorum requirements.

As stated above, the Allocation Committee membership is drawn from the Allocation Panel. The Allocation Panel consists of 28 Floor brokers, 8 allied members, the 8 Floor broker Governors (who are part of the Allocation Panel by virtue of their appointment as Governors), and the 4 allied members serving on the Exchange's Market Performance Committee. The Exchange would also amend the Policy to expand the Allocation Panel by appointing a minimum of 5 Senior Floor Officials each year. The Senior Floor Officials on the Allocation Panel would constitute a separate category, distinguished from the 28 Floor brokers.

In the event that any of the Floor broker Governors on the standing Allocation Committee were not able to attend an Allocation Committee meeting, or to participate in the allocation of a particular stock, the Exchange would first seek to substitute for such Governor(s) with another Floor broker Governor on the Allocation Panel. If no such Governor was available, in order to maximize the seniority of the Allocation Committee membership, a Senior Floor Official broker on the Allocation Panel that is not a standing member of the Allocation Committee would be sought as a substitute for the absent Governor(s). In instances where no Senior Floor Official broker was available from the Allocation

Panel, any Senior Floor Official broker on the standing Allocation Committee may substitute for the absent Governor(s) for purposes of meeting the Governor quorum requirement.

The current language of the Policy states that a former Allocation Committee chairman may substitute for a standing Allocation Committee member who cannot attend a meeting or participate in a particular allocation decision, when a Floor broker or allied member is not available to substitute for the unavailable Committee member. The Exchange is amending the Policy to indicate that, however, a former Allocation Committee chairman may not substitute for a Floor broker Governor for the purpose of meeting the Floor broker Governor quorum requirement unless such former Allocation Committee chairman is a Senior Floor Official.

The exchange is also amending the "Term of Service" provision for Panel members to include a provision for Senior Floor Officials. Senior Floor Officials are subject to annual reappointment, but are not subject to the two committee term restriction that floor brokers and allied members are subject to, and are not limited to a maximum of six consecutive one-year terms.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).⁹ In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public. Further, the Commission finds that the rule change is consistent with section 11(b) of the Act¹⁰ and Rule 11b-1 thereunder,¹¹ which allow exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets.

The Commission believes that the amended Policy should enhance the Exchange's allocation process and thereby protect investors and the public interest. Specialists play a crucial role in providing stability, liquidity and continuity to the trading of securities. Among the obligations imposed upon

specialists by the Exchange, and by the Act and the rules thereunder, is the maintenance of fair and orderly markets in their designated securities.¹² To ensure that specialists fulfill these obligations, it is important that the Exchange develop and maintain stock allocation procedures and policies that ensure that securities are allocated in an equitable and fair manner and that all specialists have a fair opportunity for allocations based on established criteria and procedures.

The Commission believes that amending the Policy to revise the composition of the Allocation Panel and the quorum requirement for the Allocating Committee, should maximize the expertise of the Allocation Committee and Allocation Panel. A high level of expertise should enable the Allocation Committee to provide the best possible match between specialist units and the securities to be allocated and, thereby, ensure the quality of specialist performance.

In addition, the Commission believes that the amended Policy will contribute to the maintenance of fair and orderly markets. The amended Policy permits Senior Floor Officials to substitute for Floor broker Governors on the Allocation Committee when such Floor broker Governors cannot participate in the Allocation Committee's meeting. By providing an alternative means for the Allocation Committee to meet and determine stock allocations, stock will be allocated to specialists in a more expeditious manner.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-NYSE-95-13) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2799]

Missouri; Declaration of Disaster Loan Area

Randolph County and the contiguous counties of Audrain, Boone, Chariton, Howard, Macon, Monroe, and Shelby in

⁸ A Senior Floor Official is a former Governor or a former Floor Director.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78k(b).

¹¹ 17 C.F.R. 240.11b-1.

¹² Rule 11b-1, 17 C.F.R. 240.11b-1; NYSE Rule 104.

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).